



MILWAUKEE POLICE DEPARTMENT

STANDARD OPERATING PROCEDURE

110 – FAMILY VIOLENCE

GENERAL ORDER: 2006-06

ISSUED: March 1, 2006

EFFECTIVE: March 1, 2006

ACTION: Amends General Order 2004-66 (September 15, 2004)

110.05 PURPOSE

The Department's official response to cases of family violence is strict enforcement of the criminal laws, protection of victims, and an uncompromising attitude that violent or otherwise criminal behavior is neither excused nor tolerated. It is the intent of the Milwaukee Police Department to deter future acts of family violence by holding the predominant aggressor accountable for his or her actions taken against the laws of the State of Wisconsin and to protect the rights of victims, children, elderly and all citizens to be free from abuse or injury. This standard operating procedure proposes to deter future acts of family violence and to reduce potential injury to victims by mandating a warrantless arrest supported by probable cause for all cases of family violence and sexual assault.

Investigations shall be based upon evidence and not simply upon the willingness of the victim to testify or upon the relationship of the parties involved in the incident.

In keeping with Wis. s.s. 968.075, officers shall seek to investigate matters of family violence in anticipation that victims will recant, minimize, refuse to testify, or fail to appear. In doing so, officers shall gather necessary evidence so that, should the matter be prosecuted, every effort has been made to proceed without the participation of the victim.

110.10 DEFINITIONS

A. DOMESTIC ABUSE

Per Wis. ss. 968.075(1), "Domestic abuse" means any of the following:

1. Intentional infliction of physical pain, physical injury or illness.
2. Intentional impairment of physical condition.
3. Sexual assault (1st, 2nd and 3rd degree); or
4. A physical act that may cause the other person to reasonably fear imminent engagement in the conduct described above.*

*Note that "attempt" as defined in Wis. ss. 939.32(1) does apply to all felony offenses as well as misdemeanor battery offenses included in Wis. s.s. 940.19 & 940.195.

B. PERSONS SUBJECT TO MANDATORY ARREST FOR DOMESTIC VIOLENCE OFFENSES

Adult persons (17 years of age or older) are subject to mandatory arrest for domestic violence offenses when committed against the following:

1. Spouse;
2. Former spouse;
3. An adult (18 years of age or older) with whom the person resides or formerly resided;
4. An adult with whom the person has created a child.

C. PREDOMINANT AGGRESSOR

The most significant, but not necessarily the first, aggressor in a domestic abuse incident.

D. CHILD / JUVENILE

A person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "child" does not include a person who has attained **17** years of age. [Wis. s.s. 48.02 (2)], [Wis. s.s. 938.02 (10m)]

E. UNBORN CHILD

Means a human being from the time of fertilization to the time of birth. [Wis. s.s. 48.02 (19)]

F. ADULT

Adult means a person who is 18 years of age or older, except that for purposes of investigating or prosecuting a person who is alleged to have violated any state or federal criminal law or any civil law or municipal ordinance, "adult" means a person who has attained **17** years of age. [Wis. s.s. 48.02 (1d)]

G. PARENT

Means either a biological parent, a husband who has consented to the artificial insemination of his wife under Wis. s.s. 891.40, or a parent by adoption. If the child is a non-marital child who is not adopted or whose parents do not subsequently inter-marry under Wis. s.s. 767.60, "parent" includes a person acknowledged under Wis. s.s. 767.62. (1) or a substantially similar law of another state or adjudicated to be the biological father. Parent does not include any person whose parental rights have been terminated. [Wis. s.s. 48.02 (13)]

H. ABUSE

Means any of the following:

1. Physical injury inflicted on a child by other than accidental means.
2. When used in referring to an unborn child, serious physical harm inflicted on the unborn child and the risk of serious physical harm to the child when born, caused by the habitual lack of self-control of the expectant mother of the unborn child in the use of alcohol beverages, controlled substances, or controlled substance analogs, exhibited to a severe degree.
3. Sexual intercourse or sexual assault contact under Wis. s.s. 940.225. (which includes First Degree Sexual Assault, Second Degree Sexual Assault, Third Degree Sexual Assault, and Fourth Degree Sexual Assault.)
4. Sexual intercourse or sexual assault contact under Wis. s.s. 948.02. (which includes First Degree Sexual Assault of a Child, Second Degree Sexual Assault of a Child and failing to act when a person responsible for the welfare of a child has knowledge that another person intends to have, is having or has had sexual intercourse or sexual contact with a child.)
5. Sexual intercourse or sexual assault contact under Wis. s.s. 948.025. (engaging in repeated acts of sexual assault of the same child.)
6. Violation of Wis. s.s. 948.05 (Sexual Exploitation)
7. Permitting, allowing, or encouraging a child to violate Wis. s.s. 944.30 (Prostitution)
8. A violation of Wis. s.s. 948.055 (Causing a Child to View or Listen to Sexual Activity)
9. A violation of Wis. s.s., 948.10 (Exposing Genitals or Pubic Area)
10. Emotional damage for which the child's parent, guardian or legal custodian has neglected, refused, or been unable for reasons other than poverty to obtain the necessary treatment or to take steps to ameliorate the symptoms.

I. ELDER ABUSE

"...willful infliction on an elder person of physical pain or injury or unreasonable confinement to a person who is age 60 or older or who is subject to the infirmities of aging". Note that Wisconsin State Statutes identifies "Elder Abuse" by both age and/or vulnerability of the person. (Wis. s.s. 46.90)

J. NEGLECT

Means failure, refusal, or inability on the part of a parent, guardian or legal custodian, or other person exercising temporary or permanent control over a child, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care,

or shelter so as to seriously endanger the physical health of the child. [Wis. s.s. 48.981 (1) (d)]

K. PHYSICAL INJURY

"Physical injury" includes, but is not limited to lacerations, fractured bones, burns, internal injuries, severe or frequent bruising or great bodily harm, as defined in Wis. s.s. 939.22 (14). [Wis. ss. 48.02 (14g)]

L. VULNERABLE ADULT

Means any person 18 years of age or older who either is a developmentally disabled person or has infirmities of aging, mental illness, or other like incapacities and who is substantially mentally incapable of providing for his or her needs for food, shelter, clothing, or personal or health care; or unable to report cruel maltreatment without assistance. [Wis. s.s. 940.285 (1) (e)]

110.15 SENSITIVE CRIMES DIVISION

A. RESPONSIBILITIES

The Sensitive Crimes Division (SCD) is a support unit within the Milwaukee Police Department designed to address the needs of the Department as they relate to criminal offenses, which by their nature would be considered "sensitive" within the community.

1. The SCD is responsible for the case management of:

a. SEXUAL ASSAULT UNIT

Sexual Assault Investigations
Cold Hit Unit (DNA Analysis follow-up)

b. FAMILY VIOLENCE UNIT

Crimes Against Children
Truancy Abatement Burglary Suppression (T.A.B.S.)
Missing Persons
Crimes Against the Elderly
Domestic Violence

2. The SCD shall maintain liaison with the State Probation and Parole offices as it relates to juvenile matters and convicted sex offenders.

B. LOCATION/HOURS

The SCD shall be located in the Police Administration Building and is operational seven days a week.

110.20 DOMESTIC VIOLENCE INVESTIGATIONS**A. SHIFT COMMANDER NOTIFICATION**

When members of the police force happen upon or are called to a domestic violence incident, they shall promptly conduct an investigation. If an incident of domestic violence is confirmed, members shall notify their shift commander **from the scene**.

B. CRITERIA FOR NOTIFICATIONS TO THE SENSITIVE CRIMES DIVISION

Upon receiving such notification, shift commanders shall evaluate the incident and if it meets the below listed criteria, contact the Sensitive Crimes Division. The SCD supervisor will determine the appropriate course of action.

1. Domestic violence incident where substantial battery occurred.
2. Domestic violence incident and a child is injured during the incident.
3. Domestic violence incident involving the offender choking/strangling victim
4. Domestic violence incident and the offender is involved in hostage taking conduct.
5. Domestic violence incident where a weapon was brandished or displayed.
6. Domestic violence incident and the offender is threatening suicide.
7. Domestic violence incident and stalking behavior as defined by state statute is present.
8. Violations of a protective order where the respondent is not in custody.
9. Domestic violence incident and the victim is vulnerable because of age, disability, or pregnancy.
10. Domestic violence incident and sexual assault occurred.

The above list is not all-inclusive. When in doubt, shift commanders shall notify the Sensitive Crimes Division.

C. REPORTS TO FAMILY VIOLENCE UNIT

Shift commanders shall ensure that a copy of the incident report, and when applicable, PA-45 and Miranda statements related to domestic violence incidents shall be immediately forwarded to the Sensitive Crimes Division-Family Violence Unit.

D. OFFICER'S RESPONSIBILITIES

1. Officers shall determine if probable cause exists that a battery [as defined by Wis. s.s. 940.19 and 939.22(4) & (14)] has occurred.
2. Officers shall determine if probable cause exists that a Sexual Assault (1st, 2nd, or 3rd) has occurred as defined in Wis. s.s. 940.225(1), (2), (3) or (4). Marriage to the victim does NOT prevent arrest or prosecution.

3. Officers shall determine if probable cause exists for any crime as a result of a physical act that may cause the other person reasonably to fear imminent engagement in a battery or sexual assault (e.g., Disorderly Conduct-Threat or Disturbance, Wis. s.s. 947.01; Threat to Injure, Wis. s.s. 943.30; Intimidation of Witnesses, Wis. s.s. 940.42, 940.43 or Intimidation of Victims, Wis. s.s. 940.44, 940.45; Endangering Safety by Use of a Dangerous Weapon, Wis. s.s. 941.20, etc.).
 - a. Threats alone, without the victim reasonably fearing for his or her safety, no longer constitute a violation of the domestic abuse law and must be handled as non-domestic violence cases.
 - b. Complaints such as burglary, theft, and entry into locked vehicle and many criminal damage to property incidents will not qualify as domestic abuse cases. There must be evidence to indicate that these physical acts will reasonably lead the victim to fear imminent engagement in a battery or sexual assault. If this connection cannot be established, the incident must be handled as a non-domestic violence case.
4. Officers shall determine if probable cause exists that a person violated the terms of the 72-hour "No Contact Order" following an arrest for a domestic violence offense pursuant to Wis. s.s. 968.075(5).
5. Officers shall determine if probable cause exists that a person violated the terms of a domestic abuse restraining order/injunction pursuant to Wis. s.s. 813.12(7).

PROBABLE CAUSE FOR WARRANTLESS ARREST

1. Probable cause to arrest refers to that quantum of evidence, which would lead a reasonable police officer to believe that the defendant probably committed a crime. It is more than a hunch or suspicion but less than the evidence required to convict at trial.
2. There are two requirements for a valid warrantless arrest when the offense is not committed in the officer's presence:
 - a. There must be probable cause to believe that a crime has been committed by the suspect; and,
 - b. It is impractical to obtain a warrant under the circumstances.
3. Probable cause factors include, but are not limited to:
 - a. Bodily harm or pain to victim (visible injury NOT required for arrest). [Wis. s.s. 939.22(4)]
 - b. Sexual contact or sexual intercourse as defined in Wis. s.s. 940.225(5).
 - c. Statements of the victim including non-consent to the offense.

- d. Statements of family members, including children.
- e. Statements of friends or neighbors.
- f. Statements of the suspect.
- g. Excited utterances (res gestae) of the suspect or victim.
- h. Observations of the scene and victim.
- i. Abuse History: Knowledge of previous calls at the same location or with the same parties.
- j. Prior Abuse: Knowledge of previous threats/offenses against the victim by the suspect.
- k. A valid temporary restraining order or injunction order served on the suspect.
- l. Physical evidence. Consider the following possibilities of evidence officers may encounter at the scene of a domestic abuse crime:
 1. Torn or ripped clothing;
 2. Weapons;
 3. Bloodstained articles; items left by the suspect, etc.
 4. Disarray of residence, including the furniture etc.

110.25 MANDATORY ARREST FOR DOMESTIC VIOLENCE OFFENSES REQUIRED BY STATE LAW

A. PROBABLE CAUSE

If probable cause exists that a domestic violence offense occurred as determined by the totality of the circumstances under section 110.20, **the suspect shall be summarily arrested and taken into custody for a state charge even if the victim declines to prosecute.** Failure to make the mandatory arrest may result in disciplinary action, civil liability, and/or criminal charges against the officer.

1. If the suspect is not on the scene and cannot readily be located, the investigating officer shall apply for a state warrant.
2. It is required that a good faith effort be made to locate the suspect. Efforts to locate the suspect must be documented on the Incident Report Supp.
3. The lack of visible injury or the victim's unwillingness to prosecute, by themselves, are not legal grounds to refuse to make the mandatory arrest.
4. If probable cause cannot be established, do **not** arrest. Contact the shift commander for advice.

B. PREDOMINANT AGGRESSOR

When the officer has probable cause to believe that parties have committed domestic violence offenses against each other, the officer does NOT ordinarily have to arrest

both persons but should arrest the person whom the officer believes to be the predominant aggressor. (Wis. Act AB436 signed into law on 1-5-06.)

1. In determining the predominant aggressor, WI Act AB436 mandates that officers consider the following:
 - History of domestic abuse between the parties, if it can be reasonably ascertained by the officer and any information provided by witnesses regarding that history.
 - Statements made by witnesses.
 - The relative degree of injury inflicted on the parties.
 - The extent to which each person present appears to fear any party.
 - Whether any party is threatening or has threatened future harm against another party or another family or household member.
 - Whether either party acted in self-defense or in defense of any other person.
2. Some additional factors for consideration in determining predominant aggressor may include some of the following:
 - Age, height and weight of the parties, as well as strength and skill of each party.
 - Criminal History, including a determination of whether one party is on probation/parole.
 - Seriousness of injuries, including investigation of offensive vs. defensive wounds.
 - Motive to lie and credibility of each party.
 - Corroboration of statements.
 - Use of alcohol and/or illegal or prescription drugs.
 - Identity of reporting parties.
 - Existing Temporary Restraining Order, Injunction, No Contact Order.
 - Admissions or statements of guilt.
3. In cases where both parties are considered for arrest, officers shall request a supervisor to respond to the scene. If the responding supervisor determines that either both parties are to be arrested or one party is to be arrested and the other party is ordered in to the District Attorney's Office, the investigating officer, shall in both instances, appear in the District Attorney's Office.

C. MANDATORY ARREST REVISIONS – 28 DAY EXCEPTION

1. If the officer's "probable cause to believe" is based **on a report** of an alleged domestic abuse incident, the officer is required to make an arrest only if the report is **received within 28 days** after the day the incident is alleged to have occurred, by the officer or the law enforcement agency that employs the officer.

2. In addition, either, or both of the following circumstances must be present:
 - a. The officer has a reasonable basis for believing that continued domestic abuse against the alleged victim is likely and/or;
 - b. There is evidence of physical injury to the alleged victim.
3. If an officer is acting on the basis of a **domestic abuse report** that is received more than 28 days after the alleged incident occurred, the officer is **NOT** obligated to make an arrest. In this situation, an order-in would be appropriate.
4. Officer Immunity [Wis. s.s. 968.075(6m)]

A law enforcement officer is immune from civil and criminal liability arising out of a decision by the officer to arrest or not arrest an alleged offender, providing the decision was made in a good faith effort to comply with the domestic abuse arrest statute. However, this does not apply to federal suits.

110.30 ORDER-IN DOMESTIC VIOLENCE INCIDENTS

A. ORDER IN'S

Order In's to the District Attorney's Office for a warrant shall normally be handled by the court liaison officers and/or personnel assigned to the Family Violence Unit. Order In's are only authorized for the following reasons:

1. Suspect is not on the scene and cannot be readily located with reasonable effort. Such efforts must be recorded on the Incident Report.
2. The suspect is detained under Wis. s.s. 51.15 "Emergency Detention." (See Standard Operating Procedure 090 - Prisoners.)
3. The suspect is incapacitated by alcohol and processed pursuant to Wis. s.s. 51.45(11). (See Standard Operating Procedure 090 – Prisoners.)
4. The suspect is admitted to a hospital for inpatient medical treatment. (See Standard Operating Procedure 090 - Prisoners.)
5. If an arrest is made at a later time, the arresting officer shall check the appropriate box on the arrest package indicating a warrant request was previously filed.

B. IMMEDIATE REVIEW

All domestic violence complaints shall be ordered in to the District Attorney's Office for review the day **immediately following** the initial police contact except holidays.

C. ARREST AFTER INITIAL INVESTIGATION

After the initial investigation and prior to the order-in date, a domestic violence suspect shall be summarily arrested if probable cause exists, either for the original D.V. offense and/or for a subsequent D.V. offense that occurs prior to the scheduled order-in date.

110.35 FIRST AID

REDACTED

If the victim requires emergency medical treatment, investigating officers will request the appropriate medical conveyance through the police dispatcher.

110.40 NOTIFICATION TO VICTIM

The arresting officer shall inform both parties of the following:

- A. During the 72 hours immediately following the arrest for a domestic violence offense, the arrestee shall avoid the residence of the victim and any premises temporarily occupied by the victim and avoid contacting or causing any person, other than attorneys for the arrested person and victim, to contact the victim. Law enforcement officers may contact the victim during this time period if the need arises.
- B. If the arrestee violates this 72-hour No-Contact provision, he/she is subject to an immediate, mandatory arrest.
- C. Any subsequent domestic violence offense committed by the arrestee within the 72 hours following the original arrest will elevate the later offense from a misdemeanor to a felony. (Wis. s.s. 939.621)
- D. Officers shall direct the victim to call the Milwaukee County Sheriff's Department at 226-7070 for information regarding waiver of the 72-hour no contact provision.
- E. Officers who have been informed that the victim has waived the 72-hour no contact provision shall either be presented with a copy of the waiver or contact the Sheriff's Department, Records Division, to confirm the validity of the waiver.
- F. The arresting officer(s) shall give each victim (and potential victims, when no probable cause exists) a pink Domestic Violence Referral Notice (Form PD-33). Work location commanders shall ensure that an adequate supply of these referral notices is continuously maintained.

110.45 DOMESTIC VIOLENCE HOTLINE REDACTED**A. NOTIFICATION**

- 1. While at the scene, the investigating officer(s) shall call the 24-hour Domestic Violence Hotline (REDACTED) and provide the worker with the names of the

investigating officer, the charges, all requested information, and whether an arrest has been made. This is done to provide the victim with immediate support and services, emergency shelter, transportation, childcare, assistance with prosecution, etc. If the victim has no phone, officers shall request a supervisor with a telephone.

2. Officers must also obtain the phone number(s) where the victim may be reached so he/she can also be notified if the suspect is released on bail. After providing all the requested information, officers shall hand the phone to the victim to talk directly to the worker.

B. FELONY SEXUAL ASSAULTS - DV RELATED

Felony sexual assault cases will be called in to the hotline by Sensitive Crimes Division personnel.

C. CONFIDENTIALITY

Pursuant to Wis. s.s. 895.67, employees and agents of a domestic abuse service provider (safehouses, advocates, counselors, and hotlines) are prohibited from intentionally disclosing the location of any services recipient* to anyone, unless the recipient has given informed, written consent to do so.

*Service Recipient—Any person who receives or has received domestic abuse services from a domestic abuse services organization.

110.50 REQUIRED REPORTS FOR DOMESTIC VIOLENCE INCIDENTS

A. ORIGINAL REPORTS

Original reports shall be routed through normal channels

B. REFERRAL MEMO (FORM PR-3)

1. Misdemeanor Cases

The presence of domestic violence victims, witnesses and police officers at the misdemeanor charging conference is not required; therefore, referral memos shall **not** be issued.

2. Felony Cases

A referral memo shall be given to the victim or witnesses to appear in the Criminal Justice Facility, Room 110 of the District Attorney's Office, in all felony domestic violence cases.

C. DOMESTIC VIOLENCE REFERRAL NOTICE (FORM PD-33)

Police officers shall distribute the Domestic Violence Referral Notice (Form PD-33) to each victim of a domestic violence offense. This referral notice may also be given to potential victims. In addition, it may be given to abusers for referral to a batterer's program. Victims, when seeking case information and counsel, should be instructed to call the Domestic Abuse Advocate instead of making a personal appearance.

D. CRIME VICTIM REFERRAL (FORM PV-17)

Members shall distribute the Crime Victim Referral Notice (Form PV-17) to each victim of a criminal offense.

E. ARREST REPORT (FORM PA-45) – SUMMARY ARREST ONLY (Five copies)

1. All the elements of each offense must be contained in the "details of arrest" section on the back of the Arrest Report, including the nature of the "physical pain or injury" or sexual assault or contact suffered by the victim. If additional space is needed, an Arrest Report Supplement (PA-45B) should be used.
2. The suspect must be advised of his/her Miranda rights **and the suspect's statement must be recorded on the Arrest Report Supplement (PA-45B)**. Officers shall complete the Pedigree Form (PA-45A) prior to completing the Arrest Report Supplement (PA-45B) for statements. If the domestic violence offense is not a felony, the officers must advise the suspect of his/her Miranda rights and question the suspect.

F. INCIDENT REPORT (FORM PO-13) (Three copies)

Members shall properly complete the incident report to include the elements of each charge.

G. CLEARANCE REPORT (FORM PO-14) (Four copies)

1. Nature of Dispatch

How the call originated (e.g., victim, neighbor, relative, etc.) and the time and nature of the dispatch (e.g., family trouble, battery, cutting, etc.). Include names of all officers who responded to the scene as well as the address. Note: Include a copy of the CADS reports.

2. Initial Observations of Scene and Parties

- a. Officers' observations of the scene and the demeanor of the parties shall be recorded, (e.g., furniture overturned, broken glass, parties loud or abusive in your presence, etc.)

b. Officers' observations of the demeanor of the parties such as:

- 1) Parties loud or abusive in your presence;
- 2) Observations of any injuries upon arrival to scene;
- 3) Physical appearance of the parties (disheveled, messy or disturbed hair, swollen or red eyes, blood, crying, catching breath or heavy breathing, clothes torn, etc.);
- 4) Emotional descriptions of parties upon arrival at scene (angry, upset, hysterical, excited, sad, scared, lonely, embarrassed, fearful, afraid, calm, nervous, sobbing, shaking, threatening, etc.);
- 5) State or level of intoxication

3. Statements of Victim, Suspect, and All Witnesses, Including Children

- a. Separate paragraphs for the detailed statements of the victim, witnesses, and the suspect, if available. Care should be taken to interview the victim, witnesses, and suspect **SEPARATELY**, obtaining oral and written admissions and denials.
- b. List names, addresses, phone numbers, and dates of birth for ALL witnesses and potential witnesses present.
- c. Record all "excited utterances" of victims and witnesses.
- d. Statements made for the purposes of medical diagnosis and treatment may also be admissible in court, so include the names of all witnesses who talked to the victim, either paramedic personnel or hospital personnel.
- e. All statements made by suspects must be documented including Res Gestae statements.

4. Children

- a. Identify and interview all children who were present to determine if someone has physically or emotionally harmed them.
- b. Even if the child is not a direct victim of violence, officers shall include the name, age, and school of attendance for each child at the residence.
- c. Should officers determine that a child has been a victim of physical, sexual or serious emotional abuse (as defined in Wis. s.s. 48.981), they shall immediately notify their shift commander, who shall in turn contact the Family Violence Unit of the Sensitive Crimes Division.

5. Abuse History

Indicate if there is a history of abuse.

6. How Pain and/or Injury Inflicted

Indicate the precise nature of pain and describe the injury and how it was inflicted, to the extent possible.

7. Medical Treatment

Obtain and document all pertinent medical information. If any evidence is collected by medical personnel such as photographs, list that information in the report.

8. Photographs & Crime Scene Condition

- a. Properly document the crime scene by photographing all evidence relevant to the investigation, (e.g., injuries, physical evidence, etc.)
- b. Photograph the injuries of the victim whenever there is visible evidence of abuse or injury.
- c. Photograph and collect physical evidence such as blood splattered on walls, hair pulled out, fingernails torn out, etc.
- d. Supplement report(s) must indicate the date, time, location(s), number of photographs, and the name of the photographer.

9. Weapons

Indicate if any weapons were used or threatened to be used.

10. "No Contact Orders", Temporary Restraining Order/Injunction

State whether or not a Temporary Restraining Order, Injunction Order, "No Contact Order" or 72 Hour No Contact Order is in effect. If yes, a summary arrest is required by State law if the suspect can be readily located.

11. Abuse of Family Pets

Document abuse/suspected abuse to family pets.

Note: Officers shall proceed with this investigation knowing that the victim may recant, minimize, refuse to testify, or simply fail to appear. In doing so, officers shall gather necessary evidence so that, should the matter be prosecuted, every effort has been made to proceed without the participation of the victim.

H. DOMESTIC VIOLENCE SUPPLEMENTARY INCIDENT REPORT (Yellow PO-15D)
(Three copies)

Members shall properly complete the D.V. Supplement Incident Report

I. DISTRICT ATTORNEY'S REPORTS

1. Complaint Worksheet

This report **must** include the physical description of the suspect.

2. Witness Subpoena Data Form

List all witnesses and their home and work numbers. Include a brief summary of their expected testimony.

3. Criminal Case Scheduling Calendar

4. Felony Checklist Report (If required)

J. ARREST PACKAGE

This is obtained from the "TIME" System (*Criminal Information Bureau*). It shall be compiled at Department work locations and contain the criminal records of both suspect and victim.

K. CAD PRINTOUT

Include a copy of the CAD printout with the D.V. package.

L. DOMESTIC VIOLENCE REVIEW PACKAGE FOR BATTERY D.V. AND VIOLATION OF D.V. RESTRAINING ORDER/INJUNCTION (FORM PD-34)

1. The white Domestic Violence Review Package envelope shall be used for the purposes of gathering, reviewing, and containing all necessary reports for court liaison officers to process a **summary** Domestic Violence case or a non-summary Domestic Violence **order-in** case.
2. Shift commanders shall assure that all necessary reports and telephone notifications have been made by affixing their signature on the face of the PD-34 envelope.
3. Officers must indicate on the envelope whether a prior scheduled order-in date exists.

M. DOMESTIC VIOLENCE MISDEMEANOR SUSPECT WANT (Form PD-36) (Original and Two copies)

1. Upon determining that a misdemeanor domestic violence offense has occurred and the suspect cannot be located, the investigating officer(s) shall complete the Domestic Violence Misdemeanor Suspect Want (Form PD-36).
2. The Domestic Violence Misdemeanor Suspect Want shall be approved and signed by the shift commander and then immediately faxed to the CIB Clerical Section at **REDACTED**. The date, time, and member that faxed the report shall be noted on the report and the Domestic Violence Review Package (Form PD-34). The original and two copies of the Domestic Violence Misdemeanor Suspect Want shall be included in the Domestic Violence Review Package.

N. REPORTS TO BE DELIVERED TO THE DISTRICT ATTORNEY'S OFFICE

Shift commanders shall ensure that all reports for order-in cases are hand carried to the sallyport of the Criminal Justice Facility no later than 8:00 a.m. of the day following the initial police contact. The reports shall be placed in the mail bin at the CJF Sallyport.

110.55 COURT ADMINISTRATION SECTION

A. LIAISON OFFICER CASES

Court liaison officers will present to the D.A.'s Office the following misdemeanor summary arrests and order-ins made on all shifts with the exception of those cases handled by the Sensitive Crimes Division.

1. Misdemeanor Domestic Violence Battery [Wis. s.s. 940.19(1)].
2. Violation of 72 Hour "No Contact Orders" [Wis. s.s. 968.075].
3. Misdemeanor Domestic Violence Bail Jumping [Wis. s.s. 946.49].
4. Misdemeanor Domestic Violence miscellaneous offenses [e.g., Disorderly Conduct – Threats, Wis. s.s. 947.01; Criminal Trespass to Dwelling, Wis. s.s. 943.14; etc.].
5. D.V. Restraining Order/Injunction [Wis. s.s. 813.12(8)]; Harassment Injunctions will continue to be processed in the DA's Office by the investigating member.
6. A second misdemeanor D.V. offense during the 72 hour "No Contact" period is elevated to felony status by Wis. s.s. 939.621. These cases will be processed by D.V. liaison officers.
7. All reports and referral memos shall be stamped with the letters "D.V." The letters "D.V." shall be placed after all statute numbers, which are D.V. offenses.

For example: Wis. s.s. 940.19 "D.V." Battery, Aggravated Battery or Substantial Battery. The DV rubber stamps shall be located in the shift commander's office.

8. Officers failing to provide the required information shall be contacted and/or directed to report to the District Attorney's Office.
- C. Court Administration Section personnel shall immediately notify the SCD by fax whenever the District Attorney's Office issues a disposition regarding an order-in domestic violence complaint. After receiving a no process disposition, SCD personnel shall withdraw the domestic violence misdemeanor suspect want.

110.60 DOMESTIC VIOLENCE INCIDENTS INVOLVING DEPARTMENT MEMBERS

- A. If a member of the Department is called to or happens upon the scene of a domestic abuse incident and/or any other incident involving a Department member, the member shall immediately request a supervisor. The responding supervisor shall notify the shift commander who shall in turn make the proper notifications (night watch commander, Professional Performance Division, member's commanding officer, commanding officer of the district in which the incident occurred.)
- B. DEPARTMENT MEMBERS AS RESPONDENTS
 1. Members of the Milwaukee Police Department named as respondents in domestic abuse, child abuse, and harassment restraining orders or permanent injunctions shall, within 24 hours of service, provide a copy thereof to their commanding officer. Commanding officers shall forward all such documents to the Professional Performance Division.
 2. Members of the police force who are respondents in domestic abuse, child abuse, or harassment injunctions shall deliver their Department-issued firearm(s) to their commanding officer at the end of each tour of duty. The commanding officer shall retain the firearm(s) in an appropriate place while the member is off duty.
 3. This procedure shall remain in effect until the member presents his/her commanding officer with a copy of legal documents confirming that the injunction has expired or has been vacated. The commanding officer shall then forward that document to the Professional Performance Division.

110.65 MANDATORY ARREST FOR RESTRAINING ORDER / INJUNCTION VIOLATIONS

A. PRIOR TO ARREST

Prior to making an arrest for violation of and/or serving a temporary restraining order or permanent injunction issued in Milwaukee County, officers shall check with the Milwaukee County Sheriff's Department Warrant Unit (278-4713) to determine:

1. If the temporary restraining order/injunction has been served on the respondent.

- a. All temporary restraining orders must be served to be enforceable by arrest.
 - b. **CONSTRUCTIVE KNOWLEDGE:** If a respondent has been served with a **Domestic Abuse** temporary restraining order and notice of hearing but fails to appear at the hearing for the injunction, the respondent then has "constructive knowledge" that an injunction has been issued and shall be arrested for violation of the order whether or not he/she has been served a copy of the injunction.
 - c. Harassment and Child Abuse Injunctions must be served to be enforceable by arrest. The constructive knowledge statute only applies to Domestic Abuse.
2. If the temporary restraining order/injunction has expired.
 3. What the terms of the restraining order/injunction are.

NOTE: If the terms of the temporary restraining order/injunction are in question, officers shall request the Milwaukee County Sheriff's Department to fax a copy of the temporary restraining order/injunction to the nearest district station.

B. VALID ORDER OF PROTECTION/INJUNCTION ISSUED BY OTHER JURISDICTIONS

If the victim presents an order of protection/injunction from another jurisdiction, whether it is a civil or criminal order, officers shall notify their shift commander. Shift commanders shall make a reasonable effort to confirm its validity and, if the shift commander believes it to be valid, the officer shall enforce the order according to the terms indicated. Wis. s.s. 13.128

C. MANDATORY ARREST FOR RESTRAINING ORDERS/INJUNCTIONS REQUIRED BY STATE LAW

If the officer determines that a restraining order/injunction is in effect and there is probable cause to believe that the respondent violated **any part** of the court order, the officer shall arrest the respondent.

D. CONTACT BY PETITIONER

A valid Domestic Abuse restraining order/injunction is not voided if the petitioner allows or initiates contact with the respondent and/or by the admittance of the respondent into a dwelling that the restraining order/injunction directs him/her to avoid.

E. ADDITIONAL OFFENSES

If the respondent violates any other criminal laws in addition to the court order, he/she shall also be charged with those additional offenses.

F. INFORMATION FOR CITIZENS

1. All forms are available at the Milwaukee County Courthouse, 901 N. 9th Street, Room 711. The Task Force on Family Violence will provide assistance with explaining the legal requirements to obtain a restraining order, how to fill out the paperwork and completing the process. REDACTED
[REDACTED]
2. Citizens obtaining a temporary restraining order should deliver a copy to the police district station in the area in which they reside. All copies shall be placed in a 3 ring binder in the shift commander's office.
3. The process for obtaining an injunction is as follows; A final injunction hearing will be held within 14 days. The date for the Final Injunction Hearing will be listed on the Temporary Restraining Order/Notice of Hearing. The citizen-petitioner must be present for the Final Injunction hearing. If the respondent has not been served by that time, a second request for a Final Injunction Hearing date must be made. If the citizen-petitioner fails to appear, a new date will not be set and the case will be dismissed. If the respondent does not appear, a Final Injunction may be ordered in the respondent's absence through default judgment
4. Valid orders may be obtained by electronic filing.

110.70 TEMPORARY RESTRAINING ORDER/INJUNCTION NOT SERVED

- A. If the temporary restraining order/injunction has not been served on the respondent, officers shall advise the respondent of its existence and terms. The officer shall then take the following steps:
 1. Using one of the two copies the petitioner possesses, officers shall affix their rank, signature (legible), payroll number, district, shift, date, and time of service on the copy and serve that copy on the respondent. If the petitioner has only one copy, that copy shall be served on the respondent as addressed above. Officers shall thoroughly document the details of service of the temporary restraining order.
 2. Officers shall make a similar endorsement of service on the petitioner's remaining copy.
 3. Officers shall notify the Milwaukee County Sheriff's Department of service [REDACTED]
REDACTED
 4. If the respondent violates the terms of the temporary restraining order after service has been made, the respondent is subject to mandatory arrest.

5. If the respondent violates the terms of a Harassment or Child Abuse Injunction after service has been made, the respondent is subject to mandatory arrest.
6. If the respondent violates the terms of a Domestic Abuse Injunction, regardless of whether or not he/she was served with the injunction, the respondent is subject to mandatory arrest. (See Constructive Knowledge section 110.65 A.1.c.)

110.75 SHIFT COMMANDER RESPONSIBILITIES

Work location shift commanders shall be responsible for:

- A. Determining the lawfulness of an order-in for a warrant instead of an immediate, mandatory arrest.
- B. **Confirming** that the Domestic Violence Hotline call (**REDACTED**) has been made.
- C. The shift commander is required to sign the completed Domestic Violence Misdemeanor Suspect Want (Form PD-36) and ensure that Form PD-36 is immediately faxed to CIB Clerical Section for data entry.
- D. Sending teletypes regarding felony suspects.
- E. Ensuring that all necessary reports and copies required for liaison officer processing are filed and forwarded.
- F. Ensure that a copy of all Domestic Violence reports are promptly forwarded to the Sensitive Crimes Division.
- G. Ensuring that no victims or witnesses are ordered to appear for misdemeanor case review.
- H. Ensuring that all efforts to locate/arrest the suspect have been exhausted and properly documented on reports.
- I. Making a reasonable effort to confirm the validity of out of jurisdiction orders of protection/injunctions and if the shift commander believes it to be valid, officers shall enforce the order according to the terms indicated. Out of jurisdiction orders are presumed valid if all of the following are present:
 1. The order gives the name of the parties
 2. The order contains the date the order was issued, which is prior to the date when enforcement is sought
 3. If the order has an expirations date, the date of expiration has not occurred
 4. The order is signed by or on behalf of a judicial officer

Note: When in doubt, officers shall enforce the order and file the proper reports. Court liaison officers will have the reports reviewed at the District Attorney's Office.

110.80 FIREARMS**A. ILLEGAL TO POSSESS**

If used in the commission of an offense, all firearms must be seized as evidence and placed on property inventory. All firearms not seized as direct evidence of the underlying domestic violence crime shall be placed on inventory for "safekeeping" if the officer reasonably believes the weapon could pose a continuing threat to the occupants of the residence based upon the nature of the incident. The District Attorney's office will review the seizure and authorize return of the weapon if appropriate under Wis. s.s. 968.20 after a "Petition for Return" is filed by the lawful owner.

Any of the following in possession of any firearm shall be summarily arrested for violation of Wis. s.s. 941.29. Check for prior convictions and Injunctions, which prohibit the possession of firearms while still at the scene.

- Convicted felon
- Respondent of Domestic Abuse Injunctions
- Respondent of Child Abuse Injunctions
- Respondent of Harassment Injunction, which includes a firearm surrender/prohibition.

It is also a violation of federal law [18 U.S.C. Sec. 921 (a)(33), 922 (d)(9), (g)(9)] for a person convicted of a misdemeanor crime of domestic violence to purchase, receive, or possess firearms or ammunition. Federal law defines a misdemeanor crime of domestic violence as one including the use, or attempted use, of physical force or threatened use of deadly weapon by a person with whom the victim shares a child in common or with whom the victim is or has cohabited in a relationship of or similar to husband -wife, parent-child or guardian-ward.

B. SURRENDER OF FIREARMS BY RESPONDENT OF INJUNCTION

Firearms shall be surrendered to the Milwaukee County Sheriff's Department in accordance Wis. s.s. 813.12 (4m), 813.122 (5m) and 813.125 (4m). Persons requesting information regarding the safe and legal transportation of firearms shall be directed to call the Sheriff's Department at 278-5030.

C. RECOVERY OF FIREARMS

Persons subject to an injunction who wish to recover their firearms from the victim's residence in order to comply with the surrender provision of an injunction should be advised to contact the Milwaukee County Sheriff's Department in compliance with Wis. s.s. 968.075(5).

D. DEPARTMENT SEIZURE OF FIREARMS

The Milwaukee Police Department Property Control Section is **NOT** authorized to receive firearms surrendered pursuant to court injunctions as described in paragraph C. However, firearms seized for violation of court injunctions requiring surrender shall be placed on inventory as "evidence" for the felony violation under Wis. s.s. 941.29 (2) and retained by the Property Control Section.

F. RELEASE OF FIREARMS

1. No firearm may be released by the Commanding Officer of the Criminal Investigation Bureau or the Commander of the Property Control Section without first determining if an injunction is currently in effect and whether a court order is required for the release of firearms pursuant to Wis. s.s. 813.12 (4m)(b); 813.122 (5m) (b); or 813.125 (4m) (d).
2. Persons who were under an injunction which has expired or has been vacated shall be required to produce a court order mandating the release of any firearm which they owned or possessed during the term of the injunction.

110.85 MANDATORY CHILD ABUSE/ NEGLECT REPORTING LAW

A. STATUTORY REQUIREMENTS

The Children's Code requires certain persons, including police officers, to report any known or suspected child abuse or neglect situations. It defines the duties and procedures to be followed. A fine or imprisonment or both may be imposed on any person who fails to file a report as required. [Wis. s.s. **48.981(6)**]

B. PERSONS REQUIRED TO REPORT

Persons required to report cases of suspected child abuse or neglect; A physician, coroner, medical examiner, nurse, dentist, chiropractor, optometrist, acupuncturist, other medical or mental health professional, social worker, marriage and family therapist, professional counselor, public assistance worker, including a financial and employment planner, as defined in Wis. s.s. 49141 (1)(d), school teacher, administrator or counselor, mediator under Wis. s.s. 767.11, child care worker in a day care center or child caring institution, day care provider, alcohol or other drug abuse counselor, member of the treatment staff employed by or working under contract with a county department under Wis. ss. 46.23, 51.42 or 51.437, physical therapist, occupational therapist, dietitian, speech-language pathologist, audiologist, emergency medical technician or first responder or **police** or **law enforcement officer** having reasonable cause to suspect that a child seen in the course of professional duties has been abused or neglected, or having reason to believe that a child seen in the course of professional duties has been threatened with abuse or neglect and that abuse or neglect of the child will occur shall, except as provided under sub. (2m), report as provided in sub. (3). A court-appointed special advocate

having reasonable cause to suspect that a child seen in the course of the court-appointed special advocate's activities under Wis. ss. 48.236(3) has been abused or neglected or having reason to believe that a child seen in the course of those activities has been threatened with abuse and neglect and that abuse or neglect of the child will occur shall, accept as provided in sub. (2m), report as provided in sub(3). Any other person, including an attorney, having reason to suspect that a child has been abused or neglected or reason to believe that a child has been threatened with abuse or neglect and that abuse or neglect of the child will occur may make such a report. Any person, including an attorney, having reason to suspect that an unborn child has been abused or reasons to believe that an unborn child is at substantial risk of abuse may report as provided in sub. (3). No person making a report under this subsection may be discharged from employment for so doing. [Wis. ss. 48.981(2)]

C. REPORTS/INVESTIGATION

Referral of Report - A person required to report under sub. (2) shall immediately inform, by telephone or personally, the Bureau of Child Welfare or the (county) sheriff or city police department of the facts and circumstances contributing to a suspicion of child abuse or neglect or of unborn child abuse or to a belief that abuse or neglect will occur. The sheriff or police department shall, within 12 hours, exclusive of Saturdays, Sundays, or legal holidays, refer to the Bureau of Child Welfare all cases reported to it. The Bureau of Child Welfare may require that a subsequent report be made in writing. [Wis. ss. 48.981(3)]

D. DUTIES OF LOCAL LAW ENFORCEMENT AGENCIES

Any person reporting under this section may request an immediate investigation by the sheriff or police department if the person has reason to suspect that the health or safety of a child or of an unborn child is in immediate danger. Upon receiving such a request, the sheriff or police department shall immediately investigate to determine if there is reason to believe that the health or safety of a child or unborn child is in immediate danger and take any necessary action to protect the child or unborn child. [Wis. ss. 48.981(3)(b)]

E. CASES FOR COURT

Circumstances and conditions vary too much in neglect and contributing cases to enumerate the type of cases in which a criminal complaint/warrant should be requested. Certainly, those cases where the quality of parental supervision is extremely poor, where children are able to bring stolen items into the home, where children are missing from home and not reported missing, or where health and welfare of the children are in danger, may be potential court cases.

F. IMMUNITY FROM LIABILITY

Any person or institution participating in good faith in the making of a report, conducting an investigation ordering or taking of photographs or ordering or performing medical examinations of a child or of an expectant mother under this

section, shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed. The immunity provided under this subsection does not apply to liability for abusing or neglecting a child or for abusing an unborn child. [Wis. ss. 48.981(4)]

110.90 ABANDONED, PHYSICALLY ABUSED, NEGLECTED, AND DEPENDANT CHILD INVESTIGATIONS

A. PROCEDURE

1. When members of the police force are called to or happen upon abandoned, physically abused, neglected, or a dependant child, they shall promptly investigate and notify their shift commander. The shift commander shall ask and answer the following questions, and then direct arresting officers accordingly:

- Is the Victim under 12 years of age?
- Is the suspect significantly older (more than 5 years) than the victim? The mere fact that a suspect is an adult does not in itself necessitate a Physical Abuse charge.
- Are the injuries serious? Injuries that meet the statutory definition of a felony battery cannot be considered minor.
- Was the suspect armed with a weapon at the time of the offense?
- Is the suspect responsible for the victim's welfare? (i.e, parent, foster parent, stepparent, babysitter, or other legal guardian).
- Do the victim and suspect reside together?
- Is the suspect an employee of an institution or facility responsible for the education, physical care, or psychological care of the victim?
- Is there a history of serious incidents of violence between the victim and suspect?
- Is there likelihood of further violence between the suspect and the victim following police intervention?

If the answer to **ALL** of the above questions is "no", then it may be appropriate to charge either a municipal or State Battery, in lieu of "Physical Abuse of a Child". If the answer to any single question is "yes", the suspect is to be charged with Physical Abuse, unless otherwise directed by a SCD or CIB supervisor.

2. If personnel assigned to the SCD/CIB investigate, the SCD/CIB investigator shall be designated as the Officer in Charge (OIC) and shall be responsible for the investigation.

B. INVESTIGATIVE REPORTS REQUIRED

1. Reports are required in all investigations involving child victims.
2. **All reports are to be filed in triplicate:**

- a. **Original reports to Central Records Division**
- b. District file copy
- c. SCD copy

3. Required Reports

- a. Incident Report (PO-13)
- b. Supplementary Report (PO-15)
- c. Clearance Report (PO-14) (when applicable)
- d. Arrest Report (PA-45) (when applicable)
- e. Arrest Report Supplement (PA-45A) (when applicable)
- f. Child Welfare Notification Report (Form PH-9 when applicable)
- g. Baseless report if warranted

4. The required reports shall include the following:

- a. Describe how the police got involved in the investigation.
- b. Describe the incident.
- c. Indicate whether or not photos were taken. If so, by whom and how many?
- d. Was a supervisor called to the scene? If so, who?
- e. Whenever possible, photographs shall be obtained. Further, if untreated injuries exist, the child shall be taken to a hospital, preferably Children's Hospital, for treatment.
- f. Indicate the result of the police investigation, victim(s) physical condition, parties arrested, ordered to appear or reason for not ordering to appear and the placement (whereabouts) of the child victim(s). (e.g., delivered to Child Welfare worker, released to parent, hospital, etc.)

C. BUREAU OF CHILD WELFARE NOTIFICATION

1. In compliance with State Statutes, the investigating officer shall be responsible for contacting and notifying the Bureau of Milwaukee Child Welfare **within 12 hours**. The officer shall document the notification on the Supplementary Report (PO-15), including the name of the worker, time of notification, and disposition of the child. REDACTED
2. **Non-emergency** notifications shall be faxed to the Bureau of Milwaukee Child Welfare at REDACTED, using the *Child Welfare Notification Report* (Form PH-9). After faxing has been completed, the **original** *Child Welfare Notification Report* shall be attached to the original Incident Report and forwarded to Central Records Division. **Copies** of the notification report shall be attached to the work location reports, as well as those forwarded to the SCD. Relate the result of the police investigation, parties arrested/ordered to appear or reason for not ordering to appear.

D. PROSECUTION

1. Members shall refer to the District Attorney's Office all cases of child abuse and neglect in which a suspect has been identified. However, all such cases are to be reviewed at the MPD SCD before criminal complaints or warrants are requested. Members shall consult with a SCD supervisor who will check for prior offenses and advise them accordingly.
2. Following review by the D.A.'s Office, the OIC shall report the disposition of the case to the SCD supervisor. A Clearance Report (PO-14) shall be filed in triplicate indicating the D.A. who reviewed the case.
3. If a warrant is issued and the subject is not in custody, a Supplemental Report shall be filed indicating the D.A. who issued the warrant and what charge was issued. The MPD SCD must be notified as to the disposition of the case.
4. If a Criminal Complaint is issued, the OIC should process the prisoner according to Department procedures before going to court. A Clearance Report **must** be filed.
5. The OIC is responsible for making the presentation to the D.A., when appropriate and authorized by the shift commander of the OIC.
6. If a suspect is arrested and in custody or there is some other reason for urgency, the matter shall be reviewed on the next scheduled court date.

E. PROTECTIVE CUSTODY (DEPENDENT CHILD)

1. Wis. ss. 48.205 Criteria for holding a child in physical custody reads in part;
 - a. Probable cause exists to believe that if the child is not held, he or she will cause injury to himself or herself or be subject to injury by others;
 - b. Probable cause exists to believe that if the child is not held, he or she will be subject to injury by others, based on a determination under par. (a) or finding under Wis. ss. 48.21(4) that if another child in the home is not held that child will be subject to injury by others;
 - c. Probable cause exists to believe that the parent, guardian, or legal custodian of the child or other responsible adult is neglecting, refusing, unable, or unavailable to provide adequate supervision and care and that services to ensure the child's safety and well-being are not available or would be inadequate; or
 - d. Probable cause exists to believe that the child meets the criteria specified in par. (b), based on a determination under par. (b) or a finding under Wis. s.s. 48.21(4) that another child in the home meets those criteria.

- e. Probable cause exists to believe that the child will run away or be taken away so as to be unavailable for proceedings of the court or its officers.
 - f. Probable cause exists to believe that the child is an expectant mother, that if the child expectant mother is not held, there is a substantial risk that the physical health of the unborn child and of the child when born, will be seriously affected or endangered by the child expectant mother's habitual lack of self-control in the use of alcohol beverages, controlled substances, or control substance analogs, exhibited to a severe degree and the child expectant mother is refusing or has refused to accept any alcohol or other drug abuse services offered to her or is not making or has not made a good faith effort to participate in any alcohol or other drug abuse services offered to her.
- 2. The criteria for holding a child in custody specified in this section shall govern the decision of all persons responsible for determining whether the action is appropriate.
 - 3. Whenever it is determined that a child is in need of protective services, the investigating officers shall contact their supervisor, who shall contact the Bureau of Milwaukee Child Welfare (BCW) **REDACTED** and explain the circumstances by which the "dependent child" status was determined. The MPD supervisor will make arrangements for a BCW caseworker to meet with the investigating officer and child for the purpose of taking the "dependent child" into their physical protective custody.
- a. The investigating officers shall note in their memorandum book the name of the BCW case worker taking the child into protective custody, the date, time, and location where the physical transfer of custody took place and additionally document on a:
 - 1. Supplemental Report

Whenever a dependent child is taken into protective custody in conjunction to an investigation requiring an incident report or missing persons report; e.g., Physical Abuse of a Child, Child Neglect, Child Abandonment, etc.
 - 2. PA-45: Arrest Report;
 - a. Whenever a dependent child is taken into protective custody under circumstances that do not necessitate an incident report.
 - b. If more than one child is involved, a **separate Arrest Report (PA-45) must be filed for each child**. However, the detailed narrative need only be on the back of the oldest child's report.

3. If the dependent child is a runaway or missing juvenile from another jurisdiction, that jurisdiction shall be contacted and informed. If the parents, guardian, or other jurisdiction will respond within a reasonable amount of time, the juvenile shall be turned over to them. The Arrest Report shall indicate the action that was taken, noting the date and time that custody was transferred. If the parents, guardian, or other jurisdiction cannot respond within a reasonable amount of time, the officer shall notify the BCW and abide by 1 or 2 above. The officer shall again notify the parents, guardian, or other jurisdiction as to the whereabouts of the child.

F. MILWAUKEE COUNTY CHILDREN'S CENTER / BUREAU OF CHILD WELFARE

1. The Milwaukee County Children's Court Center (MCCC) and the Bureau of Child Welfare (BCW) will accept children who are to be "detained" for reasons set forth in the *Temporary Physical Custody Request/Authorization form*. Also refer to Standard Operating Procedure section 140.35 Possible Criteria for Detention.
2. Officers shall continue to make an effort to place all dependent children with the BCW by calling **REDACTED** and requesting a worker to respond to the scene or work location.
3. In the event the BCW cannot be reached, or their response cannot be made in a timely manner, a conveyance to the MCCC is appropriate. Prior notification to the MCCC intake worker (**REDACTED**) shall be made.

Note: The D.A.'s Office located at the MCCC, 10201 W. Watertown Plank Rd., has established a Child(ren) in Need of Protective Services (CHIPS) Duty District Attorney for the MCCC, who will be available via pager/telephone after normal working hours and on weekends to provide advice and assistance in cases of child abuse and/or neglect. The telephone number of this Duty D.A. will be available to all districts and bureaus by teletype weekly.

G. TAKING A NEWBORN CHILD INTO CUSTODY

1. If a parent or person assisting the parent wishes to relinquish custody of a newborn child 72-hours old or younger and **does not express an intent to return for the child**, officers shall, if they reasonably believe the child to be **72-hours old or younger**, immediately take the child into custody according to Wis. ss. 48.195.
2. The officer shall make available to the parent or person who relinquishes custody of the child, the Maternal and Child Health toll-free telephone number (800) 722-2295. Officers may not induce or coerce any parent into accepting that information.

3. Officers shall immediately summon an ambulance to transport the newborn child to a hospital.
4. Officers shall notify the BCW.
5. Officers shall not attempt to locate or ascertain the identity of a parent who relinquishes custody of the child or the location or identity of the person who assists the parent in that relinquishment except under the following circumstances:
 - a. Officers have reasonable cause to suspect that the child has been the victim of abuse or neglect as defined in Wis. ss. 48.981(1)(d).
 - b. The person assisting the parent has coerced the parent into relinquishing custody of the child.

Note: If the officers have any questions about the implementation of the above procedure, members shall contact their shift commander.

110.95 SEXUAL ASSAULT INVESTIGATIONS

A. PROCEDURE

When members of the police force are called to or happen upon a sexual assault, they shall promptly investigate and notify their shift commander. The shift commander shall then contact the SCD or CIB.

1. The SCD/CIB investigator shall investigate as determined by the shift commander.
2. The SCD/CIB investigator shall be designated as the OIC and shall be responsible for the investigation.

B. INVESTIGATIVE REPORTS REQUIRED

1. **All reports are to be filed in triplicate:**
 - a. **Original reports to Central Records Division**
 - b. District file copy
 - c. SCD copy
2. Required Reports
 - a. Incident Report (PO-13)
 - b. Supplementary Report (PO-15)
 - c. Clearance Report (PO-14) (when applicable)
 - d. Arrest Report (PA-45) (when applicable)
 - e. Arrest Report Supplement (PA-45A) (when applicable)
 - f. Child Welfare Notification Report (Form PH-9 when applicable)

- h. Baseless report if warranted
- i. Teletype shall be completed for all suspects
- j. PV-17

3. The required reports shall include the following:

- a. Describe how the police got involved in the investigation (statements of victim and all witnesses).
- b. Describe the incident.
- c. Indicate whether or not photos were taken. If so, by whom, how many, date, and location photos were taken. (Whenever possible photographs shall be obtained)
- d. Indicate all personnel at scene.
- e. Indicate whether the victim was treated at a hospital (preferably the Women's Assessment Center)
- f. Describe all evidence recovered.
- g. Indicate the result of the police investigation, victim(s) physical condition, parties arrested/ordered to appear or reason for not ordering to appear, and the whereabouts of the child victim. (if applicable) (e.g., delivered to Child Welfare worker, released to parent, etc.)

C. DNA ANALYSIS-COLD HIT UNIT

Members assigned to the Cold Hit Unit shall review all sexual assault investigations and ensure that DNA evidence recovered is properly inventoried and submitted to the State Crime Lab.

110.100 ELDER ABUSE

A. DEFINITIONS AND UNDERSTANDING ELDER ABUSE

- 1. Wis. ss. 46.90 – Elder Abuse Reporting System, defines elder abuse as “willful infliction on an elder person of physical pain or injury or unreasonable confinement of a person who is age 60 or older or who is subject to the infirmities of aging.” Note that WI identifies “Elder Abuse” by both age and/or vulnerability of the person.
- 2. Elder Abuse can be **acts or failures to act** by one required to act, which cause harm to an elder, frail, or vulnerable adult. Note that this definition excludes self-neglect, which can be and is often categorized as elder abuse.

3. Elder Abuse Can Include

- a. Physical, Sexual, Emotional & Psychological Abuse
- b. Neglect or Abandonment
- c. Financial Exploitation

B. DEPARTMENT ON AGING

The Milwaukee County Department on Aging is the designated agency that will receive reports of Elder Abuse. [REDACTED] The SCD Family Violence Unit shall be the liaison with the Department on Aging and shall review and follow up investigations of elder abuse and neglect. All investigations shall include evidence collection and case development with the assumption that the elderly victims may later recant, minimize, deny, or fail to cooperate with prosecution of the case often to protect the abuser.

C. POLICE RESPONSIBILITIES

Members of the Milwaukee Police Department shall comply with the following:

1. Respond promptly to all calls for assistance made by the Department on Aging.
2. Assist staff members of the agency in the investigation of reported elder abuse cases. Investigative duties may entail the following:
 - a. Interviews of the following: victim (including all spontaneous statements or dying declarations of the victim), suspect, family members, neighbors, and hospital visitors.
 - b. Review all pertinent documents including, but not limited to, the CAD printouts, 911 tape, medical alerts etc.
 - c. Crime Scene and Evidence Collection

Locate crime scene; Photograph pertinent locations of crime scene; preserve any blood and/or urine samples for possible crime lab testing for illegal or prescription drug analysis; Document all prescription medications at crime scene (list with specificity the number of pills ordered and remaining in each vial).

- d. Photograph

Photograph all injuries and areas where there is a complaint of pain. Follow-up should obtain additional photos over several days. Documentation of all areas of body with a "body map" or biological outline of the human body.

e. History of Abuse

Prior police contact; Determine the existence of past contacts or referrals with the Department on Aging or other social service agencies; Note information (possibly legal documentation) concerning past court involvement or proceedings such as a Guardianship Action.

f. History of Treatment

With the proper authorization, investigate past medical records, including paramedic run sheets, nursing station notes, emergency room logs, x-rays and all lab results; Identify a list of all medications, including each physician's name, dosage, and date of prescription; List each medical service provider and physician that has treated the elder over the last several years, including a list of medical professionals who can bear witness to the elder's level of functioning; Maintain current contact with treating hospital staff to see if complainant's memory has improved due to improved care, nourishment, and medical treatment.

3. Document reports of any **suspected** elder abuse received by filing an "*In the Matter Of*" report. These reports shall be forwarded to the Family Violence Unit of the SCD for screening and referral to the Department on Aging.
4. Incidents involving the following statutes shall be investigated by members assigned to the Family Violence Unit. [i.e., Wis. ss. 940.29(2) Abuse of Residents of Facilities; or Wis. ss. 940.19(3)(a) Battery, etc.]

When there is doubt regarding implementing these procedures, members shall, after obtaining permission from their Commanding Officer, contact the SCD. The SCD shall provide assistance.


NANNETTE H. HEGERTY
CHIEF OF POLICE